

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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LEE WOODS,

Plaintiff,

9:20-cv-00570 (BKS/CFH)

v.

ANTHONY ANNUCCI, Acting Commissioner,  
Department of Corrections and Community Supervision,  
JAMES O’GORMAN, Deputy Commissioner for  
Correctional Facilities, JOSEPH BELLNIER, former  
DOCCS Deputy Commissioner for Correctional Facilities,  
CHRISTOPHER MILLER, Superintendent of Great  
Meadow, DAVID ROCK, former Superintendent of Great  
Meadow, DALE ARTUS, Superintendent of Attica,  
JOSEPH NOETH, former Acting Superintendent of Attica,  
RAYMOND COVENY, Superintendent of Elmira,  
DONALD VENETTOZZI, Director of DOCCS Special  
Housing and Inmate Disciplinary Program, ALBERT  
PRACK, former Director of DOCCS Special Housing and  
Inmate Disciplinary Program, JOHN OR JANE DOES 1–5,  
members of the DOCCS SHMC at Great Meadow, JOHN  
OR JANE DOES 6–10, members of the DOCCS SHMC at  
Attica, and JOHN OR JANE DOES 11–15, members of the  
DOCCS SHMC at Elmira,

Defendants.

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**Appearances:**

*For Plaintiff:*

James D. Arden  
Caitlin N. Matheny  
Cassandra Liu  
Sidley Austin LLP  
787 Seventh Avenue  
New York, NY 10019

*For Defendants Annucci, O’Gorman, Bellnier, Miller, Rock, Artus, Noeth, Coveny, Venettozzi, and Prack:*

Letitia James  
Attorney General of the State of New York  
Andrew W. Koster  
Assistant Attorney General, of Counsel  
The Capitol  
Albany, NY 12224

**Hon. Brenda K. Sannes, United States District Judge:**

**ORDER ON DEFENDANTS’ MOTION TO DISMISS**

For the reasons discussed at the September 13, 2021 telephone conference, it is hereby **ORDERED** that Defendants’ motion to dismiss (Dkt. No. 78) is **GRANTED** in part and **DENIED** in part, as follows:

Defendants’ motion to dismiss the claims against Defendants Prack, Rock, and Artus based on the statute of limitations is **DENIED** without prejudice because the Court does not have enough information before it to take judicial notice of the employment dates of these Defendants under Fed. R. Evid. 201(b); the parties have not addressed whether the statute of limitations was tolled while Plaintiff exhausted his administrative remedies, *Gonzalez v. Hasty*, 651 F.3d 318, 323–24 (2d Cir. 2011); and Defendants have not addressed the applicability of the continuing violation doctrine, *Lucente v. County of Suffolk*, 980 F.3d 284, 310 (2d Cir. 2020);


Defendants’ motion to dismiss the § 1983 claims against Defendant Annucci in his individual capacity on the ground that the First Amended Complaint does not adequately allege his personal involvement in the alleged constitutional violations is **GRANTED**, and the claims against Annucci in his individual capacity are dismissed;

Defendants’ motion to dismiss Plaintiff’s Rehabilitation Act and Americans with Disabilities Act claims is **GRANTED**, and those claims are dismissed; and

Defendants’ motion to dismiss is otherwise **DENIED**.

**IT IS SO ORDERED.**

Dated: September 13, 2021  
Syracuse, New York

  
Brenda K. Sannes  
Brenda K. Sannes  
U.S. District Judge